

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

THOMAS BAKER, SEAN BAILEY, NICOLE
BOLDEN, ALLISON NELSON, MEREDITH
WALKER, individually and on behalf of all
others similarly situated,

Plaintiffs,
vs.

CITY OF FLORISSANT, MISSOURI,

Defendant.

Case No.: 4:16-cv-1693

JURY TRIAL DEMANDED

MOTION TO DISMISS FIRST AMENDED COMPLAINT

Defendant City of Florissant, Missouri moves to dismiss the Plaintiffs' "First Amended Class Action Complaint" pursuant to Federal Rules of Civil Procedure 8(a), 10(b), 12(f), and 12(b)(1), (6); and alternatively for a more definite statement pursuant to Rule 12(e). Defendant states in support:

1. On December 13, 2016, Plaintiffs filed their First Amended Class Action Complaint [Doc. No. 16] containing the following counts:
 - a. "Count One: Defendant City of Florissant Violated the Plaintiffs' Rights by Jailing Them for Their Inability to Pay the City, or by Forcing Them to Make Payments in Order to Avoid Jail, Without Providing an Indigence Analysis";
 - b. "Count Two: Defendant City of Florissant Violated Plaintiffs' Rights by Imprisoning Them Without Appointing Adequate Counsel";
 - c. "Count Three: Defendant City of Florissant's Use of Indefinite and Arbitrary Detention Violates Equal Protection and Due Process";

- d. “Count Four: The Deplorable Conditions in the Florissant Jail Violate Due Process and Constitute Impermissible Punishment”;
 - e. “Count Five: Defendant City of Florissant’s Use of Jail and Threats of Jail to Collect Debts Owed to the City Violates Equal Protection Because It Imposes Unduly Harsh and Punitive Restrictions On Debtors Whose Creditor Is the Government Compared To Those Who Owe Money to Private Creditors”;
 - f. “Count Six: Defendant City of Florissant’s Policy and Practice of Issuing and Serving Invalid Warrants, Including Those Solely Based on Nonpayment of Monetary Debt, Violates the Fourth and Fourteenth Amendments”; and
 - g. “Count Seven: Defendant City of Florissant’s Extended Detention of Warrantless Arrestees Without a Neutral Judicial Finding of Probable Cause Based On Sworn Evidence Violates the Fourth and Fourteenth Amendments”.
2. Plaintiffs have failed to state a claim upon which relief may be granted because, *inter alia*, the City of Florissant, Missouri is not liable under 42 U.S.C. § 1983 for the actions of the separate and distinct municipal court. Counts I, II, III, V, VI and VII must therefore be dismissed. The arguments in support stated in the memorandum accompanying this motion are incorporated herein by reference.
3. Plaintiffs have failed to sufficiently allege Article III standing, prudential standing, ripeness, each and every element required to invoke equitable relief, and that federal concerns allow for the requested relief.
4. Plaintiffs’ Complaint of 186 multi-allegation paragraphs spanning fifty-one pages and seventeen footnotes is not a “short and plain statement of the claim showing that the pleader is entitled to relief” as is required by the Federal Rules of Civil Procedure. *Ashcroft v. Iqbal*, 556 U.S. 662, 678–79, 686 (2009). See Fed. R. Civ. P. 8(a).

5. Plaintiffs' Complaint fails to state the claims of the Plaintiffs in separate paragraphs that are limited as far as practicable to a single set of facts and circumstances as required by the Federal Rules of Civil Procedure. Fed. R. Civ. P. 10(b).
6. In the alternative, Plaintiffs have failed to state a claim upon which relief may be granted in Count V as Plaintiffs (individuals allegedly owing fines to Defendants) are not similarly situated to individuals owing money to private creditors.
7. In Count IV, Plaintiff have failed to plead a totality of circumstances sufficient to state a claim based on a pretrial detainee's condition of confinement under the Fourteenth Amendment.
8. Defendant incorporates herein by reference the supporting memorandum filed herewith.

WHEREFORE Defendant City of Florissant, Missouri prays for a dismissal of the First Amended Complaint in all counts with prejudice; alternatively that any counts not dismissed be re-pleaded to comply with Rules 8(a) and 10(b); and all such other and further relief that this Court deems just and proper.

Respectfully Submitted,

KING, KREHBIEL & HELLMICH, LLC

By: /s/ Blake D. Hill

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Certificate of Service

I hereby certify that a copy of the foregoing filed electronically with the Clerk of the Court this 13th day of January, 2017, to be served by operation of the Court's electronic filing system upon all parties through their counsel registered with CM/ECF.

/s/ Blake D. Hill